IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 1309 of 1999

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SUKHABHAI RAYAJIBHAI TALAR - Petitioner(s)
Versus
GUJARAT STATE - Respondent(s)

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Appearance :
MR MA KHARADI for Petitioner(s) : 1,
MR HS MUNSHAW for Respondent(s) : 1,
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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 17/03/2006

ORAL JUDGMENT

1.The petitioner was serving with the respondent Corporation. By an order dated 5th July 1996, the Competent Authority ordered his compulsory retirement

from service. It is not in dispute that the same was on account of the misconduct alleged against the petitioner. Subsequently, an order dated 24.8.98 came to be passed by which the effective date of compulsory retirement of the petitioner was indicated as 26.9.94. Against this order, the petitioner has not made any grievance. Thus, the petitioner stood compulsorily retired from service of the respondent with effect from 26.9.94. However, the petitioner prayed for being given compassionate pension. The Authorities, however, rejected his request by communication dated 27.1.99. It was stated that since he was compulsorily retired from service by way of penalty, he is not entitled to receive any pension.

2. Learned advocate Shri Kharadi for the petitioner points out that the petitioner was governed by the Bombay Civil Service Rules (BCSR). He submitted that at the discretion of the employer, a person who is visited with the penalty of compulsory retirement may be paid compassionate pension. In this regard, he drew my attention to rule 274 as well as rule 301 of the BCSR. Contents of rule 274 suggests that a Government servant who is retired from service for misconduct may also in a deserving case be granted compassionate pension. The

limits of such compassionate pension are specified in rule 301 of BCSR. When the petitioner applied for considering his case for compassionate pension, the respondent ought to have considered the same in accordance with rules. The stand of the respondents that under no circumstances pension can be paid is not justified. Hence, it is directed that the respondents shall consider the case of the petitioner for grant of compassionate pension in accordance with rules. To make out a case, it will be open for the petitioner to make a representation in this regard. If such representation is made within a period of two weeks from today, the same will be disposed of expeditiously and preferably within a period of three months from its receipt.

3. With these directions, the petition is disposed of. Rule is made absolute to the above extent with no order as to costs.

(Akil Kureshi, J.)

(vjn)